

MEMORANDUM OF UNDERSTANDING (MOU)

Between

DIVISION OF ENVIRONMENTAL QUALITY (DEQ)

&

DISTRICT HEALTH DEPARTMENTS

Introduction

This memorandum expresses the roles and responsibilities, and clarifies the authority between the seven Public Health Districts (Districts) and the Division of Environmental Quality (DEQ). This MOU is entered into pursuant to the authority set forth in Idaho Code §39-414 and also Idaho Code §39-101 through §39-130. It is based on the desire of the Districts and DEQ to provide the public with an effective environmental health delivery system based on utilization of agency core competencies. This approach prevents gaps and avoids duplication in services and strengthens the communication and concerted effort of both the Districts and DEQ.

This memorandum addresses the following program agreements:

I. GENERAL PROGRAM AGREEMENTS

- A. Rules, standards, technical policies, guidelines and enforcement.
- B. Management of complaints.
- C. Consultations and technical assistance.
- D. Sharing and dissemination of information.
- E. Review and approval of engineering and technical plans, specifications and reports.
- F. Coordination of programs.
- G. Sanitary restrictions.
- H. Pumpable waste.
- I. Contracting agency services.
- J. Performance reporting.

II. SPECIFIC PROGRAM AGREEMENTS

- A. Water Pollution/Water Quality.
- B. Sewage Disposal.
- C. Public Water Systems (PWSs).
- D. Solid Waste Management.

I. GENERAL PROGRAM AGREEMENTS

The intent of the general program agreements is to outline roles and responsibilities of the Districts and DEQ in these broad program areas.

A. RULES, STANDARDS, TECHNICAL POLICIES, GUIDELINES AND ENFORCEMENT

1. DEQ and the Districts will work cooperatively in preparation of rules, standards, technical policies or guidelines in those program areas where joint responsibilities exist.
2. DEQ will send draft documents outlined in Item 1 to the Districts for a thirty (30) day review and comment period prior to the formal rulemaking process.
3. DEQ will notify Districts of all public meetings and hearings pertaining to delegated programs.
4. When Districts propose draft rules, standards, technical policies or guideline changes they will forward these to DEQ and follow the procedures outlined in steps 1, 2, and 3 above. This is in addition to the district board procedures for adoption of regulations as set forth in Idaho Code 39-416.
5. DEQ, or the Districts, will provide copies of final rules, standards, technical policies or guidelines adopted to each other. This procedure is in addition to the requirements of the Administrative Procedures Act. Also, DEQ will provide specific direction to the Districts regarding the implementation of DEQ final rules, standards, technical policies, and guideline changes for programs delegated to the Districts. This direction will be provided to the Districts in a timely manner.
6. The following enforcement protocol applies to the Districts responsibilities regarding instances covered by this MOU where they perform delegated parts of DEQ's programs pursuant to DEQ's rules and regulations. Non-compliance should be addressed first through education and technical assistance that is targeted to address the area of non-compliance. Enforcement is to be used only as the action of last resort when methods of education and assistance have failed to demonstrate compliance.

DEQ will:

- a) Evaluate, at the DEQ Regional Office level, all enforcement referral packages submitted by the Districts and determine a specific course of action. The Regional Administrator will: determine whether or not the referred enforcement case is within the areas of this MOU; validate whether or not reasonable efforts were expended to resolve the issue at the local level; and determine whether or not the enforcement referral package contains adequate data to support a formal enforcement action. The DEQ Regional Administrator will either resolve the issue at the regional level or decide to refer the case through the appropriate DEQ State Program Office for formal enforcement.

- b) Follow any specific enforcement protocol negotiated through contracts with the Districts.
- c) Work with the Districts to develop a specific process related to compliance and enforcement under this MOU within twelve months from the date of signing, after which that process will become part of this MOU.
- d) When appropriate, provide interpretation of DEQ rules to the Districts for consistency during administrative appeals prior to the appeal being heard by the Health Districts Board.
- e) Reserve the right to take enforcement action when determined by DEQ to be necessary to protect public health and the environment.

Districts will:

- a) Identify areas of non-compliance in delegated programs and seek to resolve such issues by providing education and technical assistance.
- b) Provide timely enforcement referral packages from the District Director to the appropriate DEQ Regional Administrator if unable to get resolution at the local level through education and technical assistance.
- c) Make staff available for consultation/participation for enforcement cases as requested by DEQ. These activities could include participation in compliance conferences or dispute resolution processes as deemed necessary by the DEQ Regional Administrator, and participation in civil or criminal actions as requested by the DEQ State Program Office.
- d) Follow any specific enforcement protocol found in contracts with DEQ.
- e) Notify the DEQ Regional Office of any Administrative Appeals for DEQ's evaluation for consistent application of DEQ rules prior to the appeal being heard by the Health District Board.
- f) Ensure all Administrative Appeals follow the administrative appeals process as agreed upon by each Health District Board for cases resulting from the Districts decisions

B. MANAGEMENT OF COMPLAINTS

This section outlines the actions the Agencies will take when receiving complaints that are the responsibility of the other agency.

1. Complaints, which are the responsibility of another agency, will be referred within one working day to the other agency. Either agency, upon receiving a telephoned complaint, will refer the caller to the appropriate agency and complaints received by letter will be forwarded to the appropriate agency by fax, e-mail or mail.
2. In referring complaints, one agency will not commit the other agency to any particular action.

3. If the agency referring a complaint requests notification of what actions were taken by the other agency, that agency will provide the information to the referring agency.
4. A resource referral list will be provided to facilitate proper referral of customer complaints.
5. Under contractual agreement with DEQ, Districts may provide initial support for complaints generated in remote areas.

C. CONSULTATIONS AND TECHNICAL ASSISTANCE

This section defines when the agencies will provide technical assistance and consultation.

1. Each agency, within its resource limitations, will provide consultations, training and technical assistance to the other upon request.
2. DEQ will inform Districts of pertinent training courses and vice versa.
3. Districts, through Council of Environmental Health Directors (COEHD), will work with DEQ to develop and present training courses of mutual interest.

D. SHARING AND DISSEMINATION OF INFORMATION

This section defines procedures to work cooperatively in sharing and dissemination of information between agencies and to the public.

1. Agency Information Sharing

- a) DEQ, within its resource limitations, will assist Districts in joint program communications, including the development of written or audio-visual materials.
- b) Districts will make recommendations for written or audio-visual material to DEQ through COEHD.
- c) DEQ and Districts will inform each other of correspondence received from other state or federal agencies, which concern activities in District or DEQ regional offices.
- d) DEQ and Districts shall provide to each other a list of contact names from each District and regional office.
- e) DEQ and Districts shall coordinate and encourage the sharing of geographic information system (GIS) data. DEQ and Districts agree to minimize the duplication of digital data entry and to exchange data and/or technical resources in support of each organization's mutual GIS interests.

2. Information to the Public

- a) DEQ and Districts will work cooperatively for timely dissemination of information to the public.

- b) DEQ and Districts will develop a public information fact sheet to help customers navigate through agency responsibilities and requirements within twelve months of the date of signing of this MOU .
- c) DEQ and Districts will design and implement agency “Report Cards” to evaluate customer satisfaction within twelve months of the date of signing of this MOU .

E. REVIEW AND APPROVAL OF ENGINEERING AND TECHNICAL PLANS, SPECIFICATIONS AND REPORTS

This section outlines the roles and responsibilities each agency will take in performing reviews of plans and specifications and report reviews.

DEQ will:

1. Approve engineering and technical plans, specifications and reports for public drinking water systems, municipal and central systems (as defined in the rules for Individual/ Subsurface Sewage Disposal systems) solid waste management sites (as defined in the Solid Waste Management Rules and Standards) and facilities or other waste treatment or disposal facilities in accordance with Idaho Code §39-118.
2. Conduct independent review of environmental impact statements and other technical reports that pertain to systems under DEQ’s authority or where agreed upon to assist Districts in their reviews.

Districts will:

1. Issue permits pursuant to those covered in the “Rules For Individual/ Subsurface Sewage Disposal Systems” and the “Technical Guidance Manual” for Individual/Subsurface Sewage Disposal System.
2. Conduct independent review of environmental impact statements and other technical reports that pertain to systems under District’s authority or where agreed upon to assist DEQ in their reviews.

F. COORDINATION OF PROGRAMS

1. Council of Environmental Health Directors (COEHD) will help coordinate programs among the Districts.
2. COEHD, or representatives of COEHD, will work with an appropriate representative, or representatives of DEQ when problems of mutual concern arise for which no agreement has been detailed in this document to determine a course of action.

G. SANITARY RESTRICTIONS

This section delegates sanitary restriction authority to the Districts for water and sewer systems as outlined in this MOU and pursuant to the procedures specified in Idaho Code §50-1301 et. seq. In general, when re-imposition of sanitary restrictions is required, the responsible agency should act. Specific areas of responsibility can be found in Section II of this MOU.

DEQ will:

1. Issue to the Districts a certificate of approval recommending release of sanitary restrictions for water and sewer systems under DEQ's responsibility.
2. Reimpose sanitary restrictions for water and sewer systems under DEQ's responsibility. Sanitary restrictions shall be reimposed if construction is not in compliance with approved plans and specifications, or the facilities do not substantially comply with regulatory standards in effect at the time of facility construction, Idaho Code 50-1326.
3. Provide adequate technical and legal support when DEQ requests a District to re-impose sanitary restrictions. This would include conducting any and all hearings that may result from the action by the District on behalf of DEQ.

Districts will:

1. Administer sanitary restrictions for all subdivisions in accordance with Idaho Code §50-1301 et. seq. Sanitary restriction certification for systems requiring DEQ approval will not be issued until a certificate of approval has been received from DEQ.
2. Re-impose sanitary restrictions for water and sewer systems under District's responsibility. Sanitary restrictions shall be reimposed if construction is not in compliance with approved plans and specifications, or the facilities do not substantially comply with regulatory standards in effect at the time of facility construction, Idaho Code §50-1326.

H. PUMPABLE WASTE

This section delegates responsibility for inspection, approval, and permitting of pumpable waste as described in this MOU and as per IDAPA 16.01.02 Water Quality Standards and Waste Water Treatment Requirements, IDAPA 16.01.06 Solid Waste Management Rules and Standards, IDAPA 16.01.15 Rules Governing the Cleaning of Septic Tanks, and IDAPA 16.01.17 Waste Water Land Application Rules. The domestic septage program regulations are specified in IDAPA 16.01.15 Rules Governing the Cleaning of Septic Tanks. Guidance for this program is also found in the "Technical Guidance Manual for Individual/Subsurface Sewage Disposal Systems" and the "Management of Pumpable Waste in Idaho" document. (Note: The proposed text listed below in the "Pumpable Waste" section would necessitate revisions to the

Pumpable Waste Guidance package. This will be revised within twelve months of the signing of this MOU.)

DEQ will:

1. Approve sites and facilities for the application and treatment of domestic septage under the rules governing the cleaning of septic tanks (16.01.15) if site is used for ongoing applications from one or multiple septic tank pumpers.
2. Non-domestic septage sites used for ongoing applications from one or multiple pumpers to the extent it constitutes a non-municipal solid waste will be handled under Section II D. of this MOU.
3. Approve sludge sites as managed under section 650 of the Water Quality Standards.
4. Issue permits for municipal wastewater land application or central wastewater land application sites.
5. Provide annually to the Districts, a statewide list of permitted septic tank pumpers.

Districts will:

1. Provide site approval or disapproval for one-time application of domestic septage, non-domestic septage, or non-municipal solid waste (NMSW).
2. Approve operation plans and provide inspections at approved domestic septage, non-domestic septage, or non-municipal solid waste sites.
3. Inspect and permit domestic septic tank pumpers.
4. Send to DEQ, by March 1st of each year, a list of septic tank pumpers who have been issued a permit for the current year, including disposal methods and locations.

I. CONTRACTING AGENCY SERVICES

Contracts are utilized between DEQ and the Districts for specific tasks in accordance with Idaho Code 39-401 and 39-414(4). DEQ and Districts shall be provided 60 days to review draft contract prior to expiration date of existing contracts. DEQ and Districts shall implement and conform to the most recent contract awarded.

J. PERFORMANCE REPORTING

In support of DEQ's annual reporting efforts to the Legislature and the Public, delegated portions of our programs will be evaluated and tracked.

1. The DEQ and the Districts will develop performance criteria within twelve months from the date of signing after which that criteria will become part of this MOU.
2. Districts shall provide performance reports addressing items listed in J.1.

II. SPECIFIC PROGRAM AGREEMENTS

The specific program agreements section addresses water pollution / water quality, sewage disposal, public water systems, and solid waste management.

A. WATER POLLUTION / WATER QUALITY

This section outlines certain roles and responsibilities for addressing water pollution and water quality.

DEQ will:

1. Conduct water pollution surveys in areas of concern and provide copies of studies to the District.
2. Work cooperatively with the Districts regarding sources of water pollution under the delegated authorities of this MOU.
3. Notify the appropriate district when source water assessments fall within their jurisdiction.
4. Ensure the districts are involved with the development of source water protection plans for public water systems within their jurisdiction.
5. Notify the appropriate District when ground water quality monitoring results of drinking water wells detect contaminants in excess of the drinking water standards.
6. Notify the appropriate district when aquifers or parts of aquifers are being proposed for recategorization or designation as a ground water quality management area.
7. Invite Districts to attend training on the utilization and implementation of the Idaho Ground Water Quality Rule.

Districts will:

1. Notify DEQ regarding available information on new, suspected, or known point and non-point sources of water pollution and work cooperatively with DEQ regarding the identified sources of water pollution.
2. Provide available information on public water systems that will assist DEQ in performing source water assessments or in assisting communities or public water systems in developing wellhead protection plans.

B. SEWAGE DISPOSAL

This section delegates the roles and responsibilities for subsurface sewage disposal as outlined in this MOU pursuant to DEQ rules and procedures. The subsurface sewage program regulations

are IDAPA 16.01.03 Rules for Individual/Subsurface Sewage Disposal and Guidance is provided in the Technical Guidance Manual for Individual/Subsurface Sewage Disposal.

DEQ will:

1. Provide Districts a copy of all inspection reports for central systems and take appropriate enforcement actions when necessary.
2. Approve plans and specifications, and provide written comments to Districts on central systems, or large soil absorption systems as defined in the rules for Individual/Subsurface sewage disposal systems. Results of DEQ reviews will be provided to the Districts within 45 days for use in issuing or denying the subsurface sewage disposal permit.
3. Approve plans and specifications and provide written comments to the districts regarding experimental sewage systems or those subsurface sewage disposal systems not covered in the "Technical Guidance Manual for Individual/Subsurface Sewage Disposal".
4. Review new equipment and systems for Individual/Subsurface sewage disposal through the Technical Guidance Committee and publish the committees recommendations in the "Technical Guidance Manual for Individual/Subsurface Sewage Disposal."
5. Perform periodic surveys assessing the Districts performance in conducting site evaluations, issuing subsurface sewage disposal system permits, and completing inspections of subsurface sewage disposal systems. This will be conducted by the DEQ on-site coordinator.

Districts will:

1. Make permitting decisions for systems covered by DEQ Individual /Subsurface Sewage Disposal rules. This includes a review of plans and specifications for those systems not reviewed by DEQ. For those systems reviewed by DEQ, the Districts shall not issue a permit unless DEQ approves the plans and-specifications.
2. Perform onsite inspections as necessary of installed systems where a permit was issued by the District.
3. Determine the site suitability for proposed subsurface sewage disposal systems as specified in IDAPA 16.01.03. Districts shall provide DEQ with a copy of the site evaluation report and subsurface sewage disposal application for each proposed large soil absorption system.
4. Take appropriate action to enforce Individual/Subsurface Sewage Disposal Rules in accordance with the enforcement protocol set forth in Section I. A f this MOU
5. Issue permits to installers of subsurface sewage disposal systems in accordance with the rules.
6. Public Health District 7 will provide Seepage Pit Permit documentation, as required in the Rules 16.01.03.008.11, to DEQ.
7. Take any other actions necessary to implement and enforce the Individual/Subsurface Sewage Disposal Rules to the extent the authority for those actions is not reserved to DEQ under this MOU.

C. PUBLIC WATER SYSTEMS (PWSs)

DEQ will:

1. Coordinate the implementation of the Safe Drinking Water Act (SDWA) Program in Idaho.

Districts will:

1. Implement and conform to the most recent contract awarded by DEQ for the “Drinking Water Systems Management Program.”

D. SOLID WASTE MANAGEMENT

This section outlines the roles and responsibilities of the agencies for the solid waste program. The governing laws are contained within the Idaho Code and IDAPA 16.01.06 Solid Waste Management Rules and Standards.

1. General

DEQ will:

- a) Develop criteria and procedures for District referral of legal actions to DEQ, where standards for groundwater, surface water, or air or have been violated.
- b) Provide reports and copies of all enforcement correspondence to the Districts.
- c) Inform the Districts of proposed facilities, sites, and systems, and provide copies of relevant correspondence

Districts will:

- a) Inform DEQ of proposed facilities, sites, and systems within the district and provide copies of relevant correspondence.
- b) Provide inspection reports and copies of all enforcement correspondence.
- c) Refer all inquiries, complaints and issues relating to agricultural solid waste, agricultural composting and similar agricultural activities to the Idaho Department of Agriculture or to DEQ, whichever is appropriate at the time.
- d) Work with counties and cities on solid waste management issues, and refer any issues falling under DEQ jurisdictions to DEQ.

2. Municipal Solid Waste Disposal Sites

DEQ will:

- a) Inform Districts of proposed facilities, sites, and systems and provide copies of relevant correspondence.
- b) Issue certification letter of suitability for prospective solid waste landfills, approve facility and ground water monitoring programs, and provide approvals pursuant to §40 CFR 258 by Idaho Code §39-7401.
- c) Issue commercial solid waste siting license.
- d) Approve or disapprove final design including point of compliance, groundwater monitoring program, alternative daily cover, alternative final cover, alternative closure and alternative post-closure care requirements and financial assurance plans for Municipal Solid Waste Land Fill.
- e) Approve final surface grade of fill area if slope exceeds 15 percent.
- f) Provide the Districts with locations of mapped municipal solid waste disposal sites and any associated data.
- g) Serve as lead agency when conducting jointly with the Districts the mandatory 3 – 5 year reviews of municipal solid waste landfills by Idaho Code §39-7419.
- h) Perform all other activities for which DEQ is authorized under the Idaho Solid Waste Facilities Act, Idaho Code §39-7401 et seq.

Districts will:

- a) Approve or disapprove solid waste facility operations plans.
- b) Enforce all aspects of operations, closure and post-closure.
- c) Operation plans will require municipal solid waste landfill personnel to contact DEQ prior to open burning.
- d) As needed, prepare and/or adopt technical guidance to meet operations, closure and post closure, except with respect to those alternative plans that need DEQ prior approval.
- e) Review and recommend to DEQ approval or denial of alternative operating plans and alternative closure and post-closure plans.
- f) Provide DEQ with corrections or updates on locations of municipal solid waste disposal sites and any associated data.
- g) Conduct routine inspections of Municipal Solid Waste Land Fills.
- h) Conduct jointly with DEQ the mandatory 3 – 5 year reviews of municipal solid waste landfills by Idaho Code §39-7419
- i) Inspect Municipal Solid Waste Land Fill site at time of closure, prior to removal of any earth-moving or solid waste processing equipment.
- j) Perform all other activities for which the Districts are authorized under the Idaho Solid Waste Facilities Act, Idaho Code §39-7401 et seq.

3. All Non-municipal Solid Waste Sites (NMSW) and Activities

DEQ will:

- a) In accordance with Idaho Code §39-118, review, approve, or disapprove siting proposals, including review of plans and specifications for new or modified Solid Waste Management

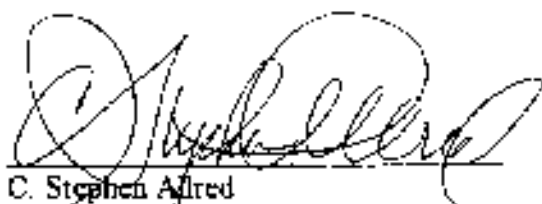
Sites for systems to assure that they will not cause or contribute to the pollution of air, surface water, or groundwater. Notify Districts when reviewing siting of new or modified facilities.

- b) Approve or disapprove registration applications for waste tire collection sites per the requirements of the Idaho Code §39-6504, the Waste Tire Act.
- c) Maintain list of registered waste tire collection sites and provide list to districts upon request.
- d) Issue air permits, when required, for incinerators or compost plants.
- e) Approve or disapprove any other beneficial use, reuse or recycling of waste tires, chips or similar materials from waste tires.
- f) Be lead agency for corrective action under solid waste rules where standards for groundwater, surface water, or air are being violated.
- g) Provide the Districts with locations of mapped sites and any associated data.

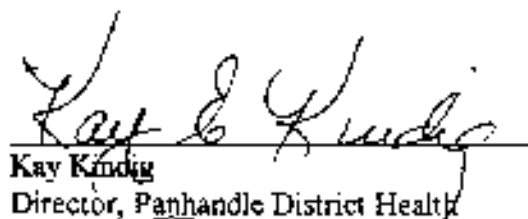
Districts will:

- a) Approve or disapprove applications for the operation of Nonmunicipal Solid Waste Facilities (NMSW), and issue a conditional use permit, where required, including compost plants, transfer stations, processing operations or recycling operations, and waste tire piles that meet the criteria of Idaho Code §39-6504, the Waste Tire Act.
- b) Provide regulatory oversight of the operations of Nonmunicipal Solid Waste Facilities (NMSW).
- c) Be lead agency for requirements relating to closure and post-closure of Solid Waste Landfills.
- d) Provide DEQ with copies of approved operations plans.
- e) Provide DEQ with corrections or updates on locations of landfill sites and any associated data.

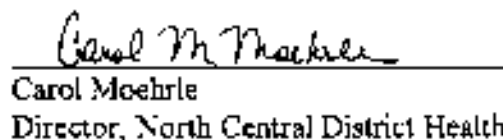
This Memorandum of Understanding shall be executed by the DEQ Administrator and the Health District Directors and replaces the Memorandum of Understanding dated January 1988. The effective date of this MOU is February 01, 2000 and shall be reviewed at least every three years or as mutually agreeable by the Agencies and can be negated upon mutual agreement of both parties.



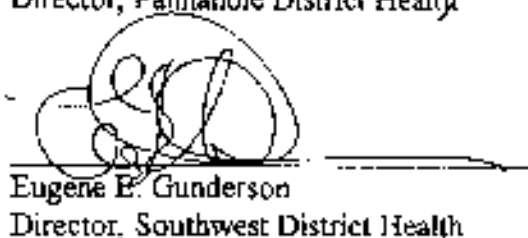
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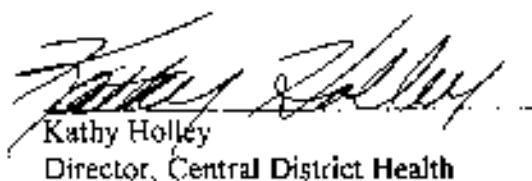
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